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*Via Email and ECFS*

Chairman Ajit Pai  
Commissioner Mignon Clyburn  
Commissioner Michael O'Reilly  
Federal Communications Commission  
445 12th St. SW  
Washington, DC 2055

Re: Written Ex Parte Presentation  
Revitalization of the AM Radio Service  
MB Docket No. 13-249

Dear Mr. Chairman and Commissioners Clyburn and O'Reilly:

Prometheus Radio Project ("Prometheus") respectfully opposes what is described in the draft order released on February 2, 2017 in the above referenced proceeding ("Draft Order"),<sup>1</sup> and calls on the Commission to, at a minimum, revise one aspect of its language.

Specifically, the Draft Order's language goes significantly beyond what was proposed in the FNPRM<sup>2</sup> with respect to the area in which FM translators rebroadcasting AM stations may be

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<sup>1</sup> *In the Matter of Revitalization of the AM Radio Service*, MB Docket No. 13-249, Draft Second Report and Order, rel. Feb. 2, 2017,

[http://transition.fcc.gov/Daily\\_Releases/Daily\\_Business/2017/db0202/DOC-343304A1.pdf](http://transition.fcc.gov/Daily_Releases/Daily_Business/2017/db0202/DOC-343304A1.pdf).

<sup>2</sup> See *Revitalization of the AM Radio Service*, First Report and Order, FNPRM, and Notice of Inquiry, 30 FCCRcd 12145, 12174, para. 68 (2015) ("FNPRM") (proposing a rule change that

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located. If not modified, the language in the Draft Order would magnify threats to the viability of incumbent Low Power FM (“LPFM”) stations by further enabling FM translators rebroadcasting an AM station to short-space incumbent LPFM stations. This change would significantly restrict incumbent LPFM’s ability to relocate their transmitter sites, even if they would only need to move a short distance. Such relocations are sometimes necessary for continuous operation. The Draft Order could also lead to increased broadcast interference for LPFM listeners,<sup>3</sup> preventing LPFM stations from serving their communities and undermining the goals of the Local Community Radio Act (“LCRA”).<sup>4</sup>

The standard set forth in the Draft Order with respect to the area in which FM translators rebroadcasting AM stations may be located is so much larger than that which was proposed in the FNPRM, that it cannot be considered a logical outgrowth of what the Commission originally proposed.<sup>5</sup> In light of the fact that the recent 2016 translator filing windows have already led to a significant increase in short spacing of LPFM stations,<sup>6</sup> the impact of the Draft Order in its present form would be particularly damaging. For the reasons stated below, Prometheus also opposes the FNPRM’s original proposal, which would also lead to increased short spacing.

Unlike full-power stations and their translators that have the ability to broadcast from elevated locations a considerable distance from their audience, LPFM stations are necessarily located amidst the small community-oriented listeners they serve. The ability of LPFM stations to relocate within their communities is essential to their viability. LPFM stations are managed by noncommercial and nonprofit organizations that largely lease transmitter locations. It is not uncommon for these locations to change landlords or property managers, or for real estate sales, re-zoning, or budgetary constraints to require LPFM stations to relocate within the permitted 5.6 km zone.<sup>7</sup> Short spacing from even one translator can cut roughly in half the area in which an

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included a limitation that the 1 mV/m coverage contour of an FM translator rebroadcasting an AM station may not extend beyond a 40-mile (64 km) radius centered at the AM transmitter site).

<sup>3</sup> See Comments of REC Networks, MB Dkt. No. 13-249, at 1 (Apr. 27, 2016)(describing the “Impacts to LPFM by recent window FM translator grants” and explaining that the “potential impact of interference to existing established LPFM stations has been a grave concern has been addressed to me by LPFM stakeholders”).

<sup>4</sup> Pub. L. No. 111-371, 124 Stat. 4072

<sup>5</sup> The FNPRM proposed to change the standard from one requiring that an FM translator rebroadcasting an AM station must be located such that the FM translator’s 60 dBμ contour is contained within the *lesser* of the 2 mV/m daytime contour of the AM station *or* a 25-mile radius centered at the AM transmitter site, to permitting it to be located within the *greater* of the two, *provided that the translator’s 1 mV/m coverage contour may not extend beyond a 40-mile (64 km) radius centered at the AM transmitter site*. FNPRM, 30 FCCRcd at 12174, para. 68. The Draft Order, as written, does not include the 40-mile radius limitation.

<sup>6</sup> An analysis of CDBS database conducted on January 12, 2017 by Prometheus Radio Project shows 81 translators short-spaced to LPFMs on Jan 15, 2016 and 270 on December 15, 2016. See *A History of Encroachment on LPFMs*, Prometheus Radio Project, <http://www.prometheusradio.org/history-encroachment-lpfms>.

<sup>7</sup> See 47 CFR 73.870(a).

LPFM station can relocate. Short spacing from multiple directions could practically eliminate any realistic relocation options, making these stations one landlord change or property sale away from going off the air. Even if a station is able to secure a new location in such circumstances, short spacing makes it difficult to later relocate back to a central location, preventing stations from reaching all of their intended audiences and making it difficult for stations to sustain themselves.<sup>8</sup>

Increasing location options for translators of AM stations while reducing relocation options for incumbent LPFM stations, undermines the goals of the LCRA by favoring expansion of commercial stations, many of which are controlled by large national ownership groups, at the expense of non-commercial local LPFM. The Commission has long recognized and sought to implement the community and diversity goals of LPFM. Chairman Pai, as commissioner in 2013, expressed that LPFM broadcasts are “critical to advancing the Commission’s diversity goals.”<sup>9</sup> Threatening LPFM viability in favor of commercial radio disservices those communities that depend on intensely local broadcasting, and as Commissioner Clyburn has recognized, “[f]arm workers, tribes, niche ethnic and language communities, community service organizations . . . all see the LPFM service as a lifeline.”<sup>10</sup> The Draft Order threatens Commissioner Clyburn’s vision of LPFM as a “phenomenal success story [that] will result in a diversity of new viewpoints and hyper local content that is so desperately needed in our country.”<sup>11</sup>

Despite ample discussion in the record addressing the proposal’s effect on LPFM and LPFM’s threatened viability,<sup>12</sup> the Draft Order does not address these concerns. Prometheus respectfully urges the Commission not to adopt the Draft Order as written, and to consider the impact of AM revitalization on LPFM.

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<sup>8</sup> See Comments of REC Networks, MB Dkt. No. 13-249 (Apr. 27, 2016)(explaining that “an LPFM station must protect an FM translator as a non-directional facility even if the translator is highly directional and is nowhere near the service contour of the LPFM,” and that “[t]his puts the LPFM in a situation where they are deadlocked at their location and while they can move further away, they can’t move closer to that translator even if it can be shown that there would be no actual contour overlap”).

<sup>9</sup> Statement of Commissioner Ajit Pai on Announcement of LPFM Filing Window (Jun. 17, 2013).

<sup>10</sup> Statement of FCC Acting Chairwoman Mignon L. Clyburn, *LPFM Implementation Report, Creation of a Low Power Radio Service*, MM Docket 99-25 (Sep. 26, 2013).

<sup>11</sup> Remarks of FCC Commissioner Mignon L. Clyburn, 2016 NAB Show, Las Vegas, Nevada, April 19, 2016, at 2, [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-338902A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-338902A1.pdf).

<sup>12</sup> See, e.g., *supra* nn. 3, 8; Comments of Daniel Brown at 1 (Dec. 21, 2015)(“Now that AM stations will be allowed to purchase and move or acquire through auction FM translators, more than likely the FM band will eventually be filled to capacity in most DMAs. As such, it would essentially spell the end for more LPFM stations.”); Comments of REC Networks, MB Dkt. No. 13-249, at 3 (Apr. 27, 2016)(“The recent influx of FM translators is starting to encroach into the established LPFM service including some stations that have been on the air for nearly a decade. The public interest not only dictates the improvement of lower powered AM stations but also the preservation of these original hyperlocal LPFM services.”).

Sincerely,

/s/Andrew Jay Schwartzman

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